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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

In re Ex Parte Application of)	Case No:
)	
)	DECLARATION OF YOSHIKAZU
Medical Corporation Koh Hou Kai,)	TSUBAKI IN SUPPORT OF EX PARTE
)	APPLICATION FOR ORDER PURSUANT
Applicant.)	TO 28 U.S.C. § 1782 PERMITTING
)	DISCOVERY FOR USE IN FOREIGN
_____)	PROCEEDING

I, Yoshikazu Tsubaki, declare as follows:

1. I am an attorney duly licensed to practice law in Japan. I am a partner at Toda Sogo Law Office, a legal professional corporation organized and existing under the laws of Japan. Applicant, Medical Corporation Koh Hou Kai ("Applicant"), a medical corporation organized and existing under the laws of Japan, retained me and my firm to initiate a civil lawsuit against those liable for defamation and unlawful business interference under Japanese law as soon as their identities have been ascertained through discovery.
2. I have personal knowledge of each matter stated herein.
3. I submit this declaration in support of Applicant's Ex Parte Application for Order Pursuant to 28 U.S.C. § 1782 (the "Application").

4. Applicant has been operating a dental clinic under the name of “Takeda Dental Clinic” (“たけだ歯科医院” in Japanese) in Fukuoka, Japan since March of 2006. In 16th and 30th of January of 2020, 4th of February of 2020, 30th of August of 2020, 19th of October of 2020, and 10th of February of 2021 multiple reviews described in Exhibit A attached hereto (the “Subject Reviews”) were posted on the Google Map review page concerning “Takeda Dental Clinic” through six different Google Accounts whose display names are “Noriko Mizuty”, “福岡花子” (“Hanako Fukuoka” in English), “ブラック無糖” (“Black Mutou” in English), “みなみななみ” (“Minami Nanami” in English) and “たろ” (“Taro” in English), “ひびき” (“Hibiki” in English) respectively (collectively the “Subject Google Accounts”). Exhibit A is a true and correct copy of the Subject Reviews on the review page as of March 3, 2021. The Subject Reviews were posted with one-star ratings and offensive comments. Based on my investigation into this matter which included interviewing Applicant personnel and reviewing pertinent records, all the comments constitute defamation and/or unlawful business interference under Japanese law. I summarized why these comments constitute the defamation and unlawful business interference in Japan on Exhibit B. See “Attorney Comment” on Exhibit B.
5. Considering the facts above, it is my opinion as a Japanese lawyer that the Subject Reviews were posted for harassment purposes and constitute defamation and unlawful business interference under Japanese law.
6. Therefore, Applicant intends to bring a lawsuit in Japan against the person(s) associated with the Subject Google Accounts as soon as the person(s)’ identities have been ascertained through the discovery sought by the Application.
7. In order to identify the person(s) who committed unlawful acts against Applicant through the Subject Google Accounts, it is crucial for Applicant to obtain the information relevant thereto. In particular, the information relating to the Subject Google Accounts, as specified in the proposed subpoena concurrently filed with the Application, would be critical and highly relevant in identifying the perpetrators.

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Obviously, access logs when the Subject Reviews were posted and access log for each login are highly relevant and necessary, but some or all of them may be unavailable because records of older access are generally erased after a short period of time (usually 3 to 6 months), in which case subsequent access logs after the Subject Reviews were posted will become highly relevant and necessary for Applicant. It shall be noted that Japanese law does not allow “John Doe defendant” in civil litigation. Article 2 (1) of Rules of Civil Procedure (Rules of the Supreme Court of Japan No. 5 of 1996) require a plaintiff to state names and physical addresses of the all parties, including defendant, in his complaint to commence litigation. Therefore, without first obtaining the information about the Subject Google Accounts, Applicant may not even start litigation.

8. The Subject Google Accounts are maintained by Google¹, located in Mountain View, California². Google is not a party to the anticipated Japanese lawsuit described above.

9. I am not aware of any restrictions imposed by or any policies under Japanese law limiting the proof-gathering proceeding in the manner proposed and for the purposes stated herein and in the Application. In addition, my law firm, on behalf of other clinics, have obtained similar information through the § 1782(a) subpoena several times in the past proceedings, but no issue on the receptivity was raised in subsequent Japanese proceeding.

10. In addition, the Subject Reviews does not contain any medical information, and any information contained is false. Moreover, Applicant is professional medical provider and will not use the information obtained except for purpose of civil litigation. Otherwise, Applicant and its members will be sanctioned by licensing authorities under Japanese dental practitioners law. There is no risk of disclosure of medical privacy by discovery proceedings.

¹ <https://about.google/intl/en/products/>.

² <https://about.google/intl/en/locations/>.

1 11. Based on the above, the documents sought from Google are highly relevant to
2 Applicant's anticipated Japanese lawsuit and are narrowly tailored and limited to the
3 discovery materials related to the Subject Google Accounts through which the identities
4 of the defendants to the anticipated Japanese lawsuit could be ascertained and nothing
5 further.

6 I declare under penalty of perjury under the laws of the United States that the foregoing
7 is true and correct.

8
9 Dated: March 12, 2021

By: 椿 良和
Yoshikazu Tsubaki

Exhibit A



Noriko Mizuty

★★★★★ 1 年前



何でこんなに評価がいいのか、はっきり言って分かりません。ひょっとしてサクラなのか？と疑いたくなります...私も2回ほど治療に行ったのですが、前歯の差し歯が取れて付け直して貰ったのだけど、噛み合わせも何も見ずにいきなりスーパーボンド(歯科用接着剤)で付けられて終わり。で家に帰って見てみると、隙間はあるし、かみ合わせは合わずに噛めないし、高い為違和感がある旨を伝えたら、翌日さっと削られこれで様子見てください。でおしまい！次に笑気麻酔？をされ、歯石を取られたんですが飛び上がるほどゴリゴリ痛くされました。変なマスクみたいなのを付けられたお陰で鼻の上にはゴムの跡がびっしり付いてなかなか消えないし、その事についても何も説明や謝罪も一切なし！結局差し歯のところも、後々他の歯医者で見て貰ったら根元が折れているので、作り直しましょうとの事。この歯医者、本当に最悪で2度と行きません。

👍 11

🔗 共有



福岡花子

ローカルガイド ・ 25 件のクチコミ



★☆☆☆☆ 1 年前

Noriko Mizutyさんの言う通り。

私も以前★1でクチコミして、他にも沢山低評価がありました。

ある日突然全てのクチコミが削除されていました。
だからここ2ヶ月の新しいクチコミしかありませんね。
レビューを操作するなんて最低です。
削除される前は平均3未満の評価だったはず。

以前にも書きましたが私はここで前歯4本をなくしました。

なんの説明もなく、差し歯にするように削られ、途中で他の歯医者さんに泣きつきましたが、結局細かく削られてしまったあとで、どうすることもできませんでした。

一生恨みます。
訴訟しようと思ったレベルです。

笑気麻酔に釣られて行きましたが、毎回涙が出る(涙腺の神経触れるのか、勝手に涙が出て止まらない)ほど、痛い治療ばかりでした。

偽物のクチコミを見て、いい病院だと思って通い始め、被害にあう人がいないように一刻も早く、実態に気づいて欲しいです。

またこのクチコミが消される可能性が大なので、スクショしときます。



ブラック無糖
1 件のクチコミ



★☆☆☆☆ 1 年前

どうりで.....

いい評価にすっかり騙された一人です。

五回も通ってしまいました。いい評価信じて通いましたが、痛くなかったのは最初だけ。歯石取りがこんなに痛かったのには、ココだけです。『痛かったら左手を上げてください！』で、あげると『痛いですか？ガマンしてください！』なんじゃそりや.....

そして何より、治療しているところではなく、手で無理矢理広げられる頬っぺた、唇の際、人の顔をなんだと思ってるんだろ？というような扱い。治療翌日頬っぺた内側が口内炎状態、ただれています。

あと、着けている手袋が破れていて、衛生上大丈夫？と不安でした。

もう、行く必要ないかな？

迷ってましたが、似たような悪評に行くのを辞める決心つきました。

星 1 個も本当は付けたくないんです。





みなみななみ
159 件のクチコミ



★☆☆☆☆ 6 か月前

他の人も書かれてますが
評価が一度消されています。
私は消された評価をもう一度つけます。
ここの治療に疑問を持ち
他の歯医者さんで治療を受けました。
正直ここで治療を受けた事を
後悔しています。



4



共有



たろ
4 件のクチコミ



★★★★★ 4 か月前

数年前になりますが、日曜診療されてあったので治療に通いましたが、1人の先生がとても怖く威圧感があり冷たい対応でした。

前歯の差し歯を替える治療でしたが、全て作業は歯科衛生士らしき女の人でそれまでの歯並びより前に差し歯を入れられた事で出っ歯気味になりました。

新しい歯を入れる時も中を洗浄せずに歯を入れようと思いました。他の歯医者ではありえないと思いますが。最悪です。

他の歯ですが、歯型をとるときに使うドロっとしたのが付き、今も残っています。

再び通うのは絶対嫌なので、諦めます。

日曜日も開いてたり遅くまで開いてたりで患者さんも多いのでは？

とにかく二度と行きません。

👍 2

🔗 共有



ひびき

★ ★ ★ ★ ★ 3 週間前

私はここに長年通ってました。治療が全て完了したと言
われましたが2日後の学校での歯科検診で大きな虫歯が
見つかり他の歯医者に通いました。そして神経をにほん
無くしました。そして今も神経を失いそうな歯がありま
す

👍 4

🔗 共有

Client		Medical Corporation Kouhoukai Iakena Dental Clinic				
		Posted Date	URL for account	URL for review	Comment	Attorney Comments
1	Noriko Mizuty	01/16/2020	https://www.google.com/maps/contrib/100592411647679443417/review/s/	https://www.google.com/maps/contrib/100592411647679443417/place/ChUjT6qEtFKVQTURQfw6cHHzjqQ/	I don't understand why the review is so high. Perhaps, there are people being staged to write fake reviews. I went to the clinic twice to get my front post crown replaced. The doctor just used super bond (dental glue) to put it back on without checking the bite. When I went home and looked at it, I found that there was a gap, the bite didn't match and I couldn't chew. Even when I asked the doctor to fix it, he just drilled my teeth quickly and said that to wait and see for a while. Next, I was given nitrous oxide to remove the tartar, but it hurt so much that I jumped out of my skin. Moreover, the doctor placed a strange rubber mask on me, leaving residue on my nose. He did not explain what the mask was for, nor apologized. When I went to another dentist later, he told me that the root of the post crown was broken and a replacement was necessary. This dentist is the worst and I will never go back.	[Excerpt from posted comment] "The doctor just used super bond (dental glue) to put it back on without checking the bite. " When I went home and looked at it, I found that there was a gap, the bite didn't match and I couldn't chew." [Attorney comments] Above reviews will constitute defamation in Japan since this comment gives the impression to people who read it that the doctor will use dental glue to attach the replacement teeth without looking at the bite and gaps. It will damage the reputation. Additionally, the doctor checks bite and gaps every time he replaces patients' teeth. Thus, this comment is baseless and to defame the clinic.
2	福岡花子 ("Fukuoka Hanako")	01/30/2020	https://www.google.com/maps/contrib/113722832337460188189/review/s/		What Noriko Mizuty said is correct. I posted a one star review on Google, and at the time, there were many other low ratings. One day, all the comments were suddenly deleted. We only found new reviews which were posted in the last two months. It's disgusting to see that the clinic is manipulating reviews. I believe the average rating was less than three stars before they were deleted. As I mentioned before, I lost four of my front teeth at this clinic. The clinic didn't explain why the doctor drilled my teeth and have teeth replaced with a post crown. I asked another doctor's opinion, but it was too late. I will hold a grudge against the clinic for the rest of my life, and am determined to filing a lawsuit. I was told and comforted to hear that the clinic uses nitrous oxide anesthesia during the treatment, but the procedure was so painful that I cried every time. (I couldn't control tears from flowing out, I am speculating if something during the procedure reached nerves in my lacrimal gland). I hope other people realize how awful their treatment was so that no one will be victimized by the fake reviews. There is a big possibility that this review will be deleted again, so I am taking a screenshot of this review.	[Excerpt from posted comment] "The clinic didn't explain why the doctor drilled my teeth and have teeth replaced with a post crown. "I asked another doctor's opinion, but it was too late. " [Attorney comments] Above review will constitute defamation in Japan since this review gives the impression to people who read it that the doctor drills patients' teeth without any explanation and consent. It will damage the reputation. Additionally, the doctor explains how the treatment will proceed and give a informed consent. Thus, this review is baseless and to defame the clinic.
3	ブラック無糖 ("Black Mutou")	02/04/2020	https://www.google.com/maps/contrib/108352363592844857159/review/s/		No wonder! I'm the one who was completely fooled by the good reviews. I went to see the doctor five times. I went to the clinic because I believed the good reviews here, but the only time it didn't hurt was the first visit. This is the only clinic that the tartar removal hurts so much. Also, the doctor said "You could raise your hand if you feel pain", so I did, then the doctor said "Does it hurt? Please be patient!" What the heck is that? More than anything, it was the inhumane and rough treatment of patient - he forced my mouth open while pulling my cheeks and edge of my lips. I mean, what was he thinking!? The next day, I got mouth ulcer, and the inside of my mouth felt sore. Additionally, the doctor wore torn gloves, so I was nervous about how clean his hands were. I will not go back to this clinic. Though I hadn't decided whether I needed to continue to see the doctor, these bad reviews made me decide not to go. I don't even want to give this clinic one star review.	[Excerpt from posted comment] "The doctor wore torn gloves." [Attorney comments] Above review will constitute defamation in Japan since this comment gives the impression to people who read it that the doctor does not wear gloves properly when he treats a patient. It will damage the reputation. Additionally, the doctor always wears gloves, not torn, when he treats a patient. Thus, this review is baseless and to defame the clinic.
4	みなみななみ ("MinamiNanami")	08/30/2020	https://www.google.com/maps/contrib/113772459761788879882/review/s/	https://www.google.com/maps/contrib/113772459761788879882/place/ChUjT6qEtFKVQTURQfw6cHHzjqQ/	As others have mentioned, the rating was erased once. Well, I'm going to give the rating again. I doubted about the treatment here and went to another dentist for treatment. I regret my decision to take the treatment here.	[Excerpt from posted comment] "the rating was erased once." [Attorney comments] Above review will constitute defamation in Japan since this comment gives the impression to people who read it that the clinic rigged the reviews in an illicit fashion. It will damage the reputation. Additionally, if there was a severe tooth decay, the doctor will not overlook it and the patient would have known it before the treatment was completed. Thus, this review is baseless and to defame the clinic.
5	たろ("Taro")	10/19/2020	https://www.google.com/maps/contrib/111746678445578180837/review/s/	https://www.google.com/maps/contrib/111746678445578180837/place/ChUjT6qEtFKVQTURQfw6cHHzjqQ/	A few years ago, I went for treatment since the clinic was open on Sunday. But, one of the doctors was mean and heartless. I had to have my front teeth replaced, but all the work was done by a woman who looked like a dental hygienist, not a doctor. She put a post crown improperly, so my teeth looked like projecting teeth. Also, when they put a post crown, they didn't even clean the inside of my mouth before putting it in. I don't think any other dentist would do that. This is the worst! Kind of glue, I am not sure what it is, still sticks in my tooth even now. I don't want to go back to the clinic again, so I give up on removing it. I think they have a lot of patients because they are open on Sunday and until late, but anyway, I won't go to this clinic again.	[Excerpt from posted comment - #1] "a dental hygienist put a post crown improperly, so my teeth looked like projecting teeth." [Attorney comments] Above review will constitute defamation in Japan since this review gives the impression to people who read it that the clinic does not confirm the position and angle of a post crown. It will damage the reputation. Additionally, the clinic always confirms the position and angle of a post crown, and let a patient confirm whether it is proper. Thus, this review is baseless and to defame the clinic. [Excerpt from posted comment - #2] "when they put a post crown, they didn't even clean the inside of my mouth before putting it in." [Attorney comments] Above review will constitute defamation in Japan since this review gives the impression to people who read it that the clinic places a post crown without washing a patient's mouth. It will damage the reputation. Additionally, the clinic always washes a patient's mouth before putting a post crown because plaque on bonding area would reduce the bonding ability. Thus, this review is baseless and to defame the clinic.

6	ひびき ("Hibiki")	02/10/2021	https://www.google.com/maps/contrib/110663292612409371603/reviews/	https://www.google.com/maps/contrib/110663292612409371603/place/ChIJT6qEtFKVQURQfw6cHzjqQ/	I had been in the clinic for many years. I was told that all the treatments were completed, but two days later, a large cavity was found at the regular dental checkup of my school. I had to go see another dentist, and I had a root canal for two teeth. Also, I still have a tooth that doesn't have a living nerve.	<p>[Excerpt from posted comment]</p> <p>"I was told that all the treatments were completed, but two days later, a large cavity was found at the regular dental checkup of my school."</p> <p>[Attorney comments]</p> <p>Above review will constitute defamation in Japan since this review gives the impression to people who read it that the clinic overlooked severe tooth decay. It will damage the reputation. Additionally, if there was a severe tooth decay, the doctor will not overlook it and the patient would have known it before the treatment was completed. Thus, this review is baseless and to defame the clinic.</p>
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